

MINUTES

LAKE COUNTY ZONING BOARD

DECEMBER 7, 2005

The Lake County Zoning Board met on Wednesday, December 7, 2005 in the Commission Chambers on the second floor of the Round Administration Building to consider petitions for rezonings, Conditional Use Permits, and Mining Site Plans.

The recommendations of the Lake County Zoning Board will be submitted to the Board of County Commissioners at a public hearing to be held on Tuesday, December 20, 2005 at 9 a.m. in the Commission Chambers on the second floor of the Round Administration Building, Tavares, Florida.

Members Present:

Timothy Morris, Vice Chairman	District 1
James Gardner, Secretary	District 3
Robert H. Herndon	District 4
Paul Bryan, Chairman	District 5
Donald Miller	Member-at-Large
Larry Metz	School Board Representative

Members Not Present:

Scott Blankenship	District 2
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Staff Present:

Carol Stricklin, Director, Department of Growth Management
Terrie Diesbourg, Interim Administrative Manager, Planning and Development Services Division
and Comprehensive Planning Division; Director, Customer Services Division
John Kruse, Senior Planner, Planning and Development Services Division
Rick Hartenstein, Senior Planner, Planning and Development Services Division
Stacy Allen, Senior Planner, Planning and Development Services Division
Jennifer DuBois, Senior Planner, Planning and Development Services Division
Sherie Ross, Public Hearing Coordinator, Planning and Development Services Division
Fred Schneider, Director, Engineering Division
Sanford (Sandy) A. Minkoff, County Attorney

Chairman Bryan called the meeting to order at 9:05 a.m. He led in the Pledge of Allegiance, and Larry Metz gave the invocation. Chairman Bryan noted that a quorum was present. He confirmed that Proof of Publication is on file in the Planning and Development Services Division and that the meeting has been noticed pursuant to the Sunshine Statute. He explained the procedure to be used in hearing the cases. He stated that all exhibits presented at this meeting by staff, owners, applicants, and those in support or opposition must be submitted to the Public Hearing Coordinator prior to proceeding to the next case. These exhibits will be on file in the Planning and Development Services Division.

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Minutes

MOTION by James Gardner, SECONDED by Donald Miller to approve the November 2, 2005 Lake County Zoning Board public hearing minutes, as submitted.

Larry Metz complimented Sherie Ross, Public Hearing Coordinator, on her detailed, accurate minutes. Paul Bryan added that the Board of County Commissioners (BCC) as well as this Board relies on these minutes.

FOR: Gardner, Herndon, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Morris, Blankenship

MOTION CARRIED: 5-0

CASE NO.: PH#87F-05-3

AGENDA NO.: 8

**OWNER: Earl Thiele, President, The Plantation at
Leesburg Limited Partnership**

**APPLICANT: Miranda F. Fitzgerald, Esquire
Lowndes, Drosdick, Doster, Kantor &
Reed, P.A.**

Rick Hartenstein, Senior Planner, stated that a 30-day continuance has been requested for this case because more information is needed by the Florida Department of Transportation (FDOT) and the East Central Florida Regional Planning Council regarding traffic issues. Staff concurred with this request.

There was no one present to represent the case nor was there any opposition in the audience to the continuance request.

James Gardner reiterated that there was no one present to represent the case. He read the following from the letter of request: "this letter will formally grant an extension of time to January 4". He said the applicant does not grant the extension; this Board grants the extension. Based on the fact that this request was not properly submitted, he would not be supporting this continuance.

MOTION by Robert Herndon, SECONDED by Donald Miller to continue PH#87F-05-3 until the January 4, 2006 Lake County Zoning Board public hearing.

FOR: Herndon, Bryan, Miller, Metz

AGAINST: Gardner

NOT PRESENT: Morris, Blankenship

MOTION CARRIED: 4-1

CASE N O.: PH#102-05-2

AGENDA NO.: 1

OWNERS: Vernon A. Schneider and Mark Oswalt
APPLICANT: Steven J. Richey, P.A.

Jennifer DuBois, Senior Planner, presented the case and staff recommendation of approval. She showed the aerial from the staff report on the monitor. When Larry Metz asked about the conflicting numbers of 110 and 120 units, Ms. DuBois said the applicant submitted a revised conceptual plan after the original staff report had been sent to this Board. She revised the staff report last Thursday afternoon. Mr. Metz confirmed that if no rezoning was done on this property, they would be able to develop 129 dwelling units. If this rezoning were approved, Mr. Metz confirmed that it would not result in an increase in density. Ms. DuBois said the applicant is seeking to spread the density across the entire acreage instead of developing each parcel separately. Based on that, Mr. Metz said that developing under the current vested rights or developing under this proposal would not make a difference in terms of schools except for a few extra students if it remains as it is currently zoned.

Steve Richey was present to represent the case. He said the staff report accurately reflects the situation. Because a Planned Unit Development (PUD) is being requested, they will be required to provide 25 percent open space. Therefore, in addition to limiting the density under this proposal, additional open space will be provided. The configuration of the lots in this proposed PUD allows more sensitivity to the indigenous environmental factors in the area. That is why he felt a PUD would be more appropriate under this circumstance. If they develop under the current zoning, they would "stack up" the houses more to obtain the yield that they are allowed to have under those zoning districts. When Paul Bryan asked the setback along the river, Mr. Richey replied that Lake County requires 50 feet. As part of the permitting process, there may be mitigation or alteration along there to improve the situation. Donald Miller asked why this rezoning is being requested if the owners could have developed at 129 units. Mr. Richey replied that a PUD is better from a development perspective.

Peggy Cox pointed out that the future land use map designation on this property allows up to four dwelling units per acre. She asked if the owners have a vested rights determination that allows six units per acre. The future land use map designation decides what the density would be, not an old zoning designation. She noted that this property is in the Clermont Joint Planning Area (JPA). She asked if Clermont has been notified or had an opportunity to comment on this project. Regarding the R-6 section of the property, Ms. DuBois said that if it was developed as an individual parcel, density could not exceed four dwelling units per acre. When she calculated the number of units that could be constructed to determine the impact the project would have on the schools with and without the change in zoning, she used a maximum of four dwelling units per acre in the R-6 portion of the property. She added that the City of Clermont has been notified.

MOTION by Donald Miller, SECONDED by James Gardner to recommend approval of PUD zoning in PH#102-05-2.

Mr. Metz stated that he could support this request because under the existing zoning categories, more units could be developed. Therefore, the impact to schools would be lessened by this request.

FOR: Gardner, Herndon, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Morris, Blankenship

MOTION CARRIED: 5-0

CASE NO.: PH#106-05-2

AGENDA NO.: 2

OWNERS: Gladys Casta and Gladys DeJesus
APPLICANT: Marco Ossa

Jennifer DuBois, Senior Planner, presented the case and staff recommendation of approval. She showed the aerial from the staff report on the monitor and noted that several letters of opposition from neighboring residents have been received including a letter and petition from the Cypress Landing Homeowner's Association. Paul Bryan asked if Ms. DuBois considered any of the issues in the letters of opposition as a concern to the rezoning. Ms. DuBois said she did. The applicant is present to answer additional questions. She said they did come in for a presubmittal conference several months ago and presented their conceptual plan to staff.

Marco Ossa said he wants to bring this after-school service to the community and a sports and arts service to the children of the area.

Peggy Cox said she lives directly west of this property across the marsh. She was opposed to this request. She said it may be a wonderful facility, but this piece of property borders wetlands that are on the Florida Forever list for purchase of parts of the Green Swamp area. They are significant wetlands. According to her public records research, this property is 140 feet wide at its widest point. She has not been able to view any conceptual plan. She was concerned about the type of playing fields to be used. She questioned the type of lighting and where the children would be coming from. Community Facility District rezoning in Rural Conservation concerned her. Although it is allowed, she did not feel it is a good idea. This property will require a septic tank. Although the City of Clermont may have sewer capacity, there are no sewer lines within 1-1/2 miles. She felt CFD zoning is inappropriate zoning for this piece of property and places an intense use against significant wetlands. The property will probably not be able to be filled. It may require a storm water management system.

Carl Cornell, secretary/treasurer of the Cypress Landing Homeowner's Association, agreed with Ms. Cox. He questioned the size of the house and its accessory use. The hours of operation are unknown. The ages of the children have not been presented. It is his understanding that only 3.5 acres of the property are buildable. Cypress Landing has an entrance/exit gate located about halfway down the center of its property. They are concerned that the excess traffic in that area will be using their private entrance/exit as a turnaround area. Lake Utilities handles the water in the area. At the present time, there are 58 building lots in Cypress Landing. Water pressure drops when they irrigate their lawns. The excess traffic currently pulls off onto their berm area, damaging the sprinkler system. The increase in traffic would add to that problem. He said they have submitted a petition with 23 signatures that represents about 50 percent of the total population of Cypress Landing. The other property owners in Cypress Landing live out of the area and could not be contacted.

Ronald Van Cleave, a resident in Cypress Landing, said he concurs with all that has been said. He spoke of the safety issues with the road construction. There have already been several deaths along this road. He was concerned about the safety of the children in the area and the high rate of speed of the traffic. In addition, it is a small piece of property.

Regarding traffic, Mr. Ossa said they are planning the drop off/pick up of children on the east side of the property. They plan to have signs to reduce the speed. The 3.5 acres will include a 4,000 square foot house, a 10,000 square foot learning center, and a parking lot. The learning center will have an inside coliseum and a stage to teach drama. In response to Robert Herndon, Mr. Ossa said there would be no more than 100 students. The hours of operation would be 7 a.m. to 6 p.m. Larry Metz questioned how this could be considered an after-school program if it starts at 7 a.m. Mr. Ossa said some children are not ready to go to school so parents could bring their children to this learning center. When Mr. Metz expressed concern about the noise from activities at 7 a.m., Mr. Ossa said the indoor coliseum could be used at that time.

CASE NO.: PH#106-05-2**AGENDA NO.: 2****OWNERS: Gladys Casta and Gladys DeJesus**
APPLICANT: Marco Ossa**PAGE NO.: 2**

At the request of Mr. Bryan, Mr. Ossa submitted a preliminary site plan as Applicant Exhibit A and a drawing as Applicant Exhibit B.

Donald Miller was informed that they plan to have no more than ten teachers. Every two or three months, they will bring in a personality to conduct seminars on such subjects as nutrition and drama.

Ms. DuBois stated that when she reviewed this request and when it came before Development Review Staff (DRS), it was her understanding that this would be an after-school facility only. She did not review it as a school. If she would review it as a school facility, then she would be reviewing it for compliance with the State requirements for educational facilities. Such a review could potentially impact the staff recommendation.

Mr. Bryan asked what would trigger a facility to be CFD zoning rather than commercial zoning. Ms. DuBois stated that a facility in CFD zoning would be more of an institutional facility providing recreational and cultural services with public benefit to the community. Since this project was intended to serve the needs of the school children in the area as an after-school facility, she felt it met the definition of a community facility. Mr. Bryan said it sounds like a wonderful project, but he was concerned about the intensity for this area. He felt it may be appropriate to continue this case in order to review it as a school. Ms. DuBois added that if this project is a school for younger students, it may not be allowed within the Rural Conservation land use category. Community facility uses are allowed in this land use category. Mr. Ossa was agreeable to a continuance to meet with staff to discuss the intent of his request.

Tim Morris came into the meeting.

Mr. Metz agreed that a continuance would be appropriate.

MOTION by Robert Herndon, SECONDED by James Gardner to continue PH#106-05-2 until the January 4, 2006 Lake County Zoning Board public hearing.

Mr. Metz said he would like more clarity in the next proposed ordinance that would be as limiting as possible once the concept is understood. He did not want a situation where the facility grows on the site after it is approved. Mr. Bryan added that he would like to see hours of operation, lighting, and ingress/egress addressed.

FOR: Morris, Gardner, Herndon, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Blankenship

MOTION CARRIED: 6-0

CASE NO.: PH#105-05-5

AGENDA NO.: 3

OWNERS: Gregory L. and Lisa A. Gottsch
APPLICANT: Larry Johnson of Bee Line Partners

Stacy Allen, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor. She noted that a letter of concern had been received.

Sandy Minkoff, County Attorney, stated that Lisa Gottsch works in his office as an administrative assistant, but that would not affect any opinion from his office.

When Paul Bryan asked if the staff recommendation was based primarily on the school overcapacity, Ms. Allen said it was. The guideline that the County planners are following is that if the schools are more than ten percent overcapacity, the planner makes a recommendation of denial.

There was no one with concerns in the audience who wished to speak.

Larry Johnson with Bee Line Partners was present to represent the case. He said Ms. Allen presented the case well. This property is surrounded by R-3 development on three sides. He felt they have a unique concept that will provide ownership of one-third acre lots with the ability to build custom homes.

When Larry Metz asked if an age-restricted community had been considered in order to eliminate any impact on schools, Mr. Johnson said it is a possibility; but he would have to confer further with his partner. Mr. Metz said he could not support this proposal in its present configuration; but if the development was age restricted, that would remove any concern from his prospective. In response to Mr. Metz, Mr. Johnson said he would be willing to continue this case for 30 days to address that issue.

MOTION by Larry Metz, SECONDED by Robert Herndon to continue PH#105-05-5 until the January 4, 2006 Lake County Zoning Board public hearing to allow additional consideration for possible age restrictions.

FOR: Morris, Gardner, Herndon, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Blankenship

MOTION CARRIED: 6-0

Mr. Johnson asked if the issue of school overcrowding in a development of this size is typically not approved by this Board. Mr. Bryan stated that school overcrowding has been a problem for quite a while. Now everyone is beginning to react to it. He asked Sandy Minkoff, County Attorney, about this Board's consideration when a recommendation of denial is given based entirely on school overcrowding. Mr. Minkoff said the staff's recommendation is based upon the direction of the Board of County Commissioners (BCC). The Comprehensive Plan does provide that rezonings should not occur if public facilities are not available. Staff's recommendation is based on that policy. The BCC has been voting that way for the most part in recent months.

CASE NO.: CUP#05/10/3-3

AGENDA NO.: 4

OWNER: Rhonda V. Vega
APPLICANT: Jim Huff of Craig & Associates for Nextel
Communications

Stacy Allen, Senior Planner, presented the case and staff recommendation of approval. She showed the aerial from the staff report on the monitor.

The applicant was present to represent the case.

Vince Leffler, immediate property owner to the south of the subject property, said his property and his in-law's adjacent property (total of 40 acres) have been in their family for over 40 years. He spoke of the unresolved health issues of communication towers and the aesthetic qualities of such a tower in a rural upscale residential area. He felt this could result in diminished surrounding property values. A cell tower would not be conducive to the character of the neighborhood. The owner was already given one special exception several years ago when she was granted a Conditional Use Permit (CUP) for the installation of a commercial canine facility. He has a Nextel radio, and the coverage in this area is adequate so he saw no need for another tower.

In response to Mr. Leffler, Paul Bryan commented that it appears this request does comply with current Land Development Regulations (LDRs).

Jim Huff of Craig & Associates spoke of the studies that have been done regarding the frequency and power output of cell towers. Nextel with Sprint are redesigning their sites to lower their antenna centerlines and power output of the towers due to the limited frequencies and the higher capacities. Once this is done, Mr. Leffler will not have as good coverage. That is why they want to add this tower.

Larry Metz stated that his property is contiguous to Mr. Huff's property, but not contiguous to the subject property. Having made that disclosure, he asked Mr. Huff to describe this proposed tower. He also asked if there would be a flashing white light at the top of it. Mr. Huff said it probably would have a light. It will be a "bare bones" pole. Mr. Bryan said a white strobe light during the day is not a problem, but at night it can be. He suggested a dual lighting system that converts to a red steady beacon at night.

When Robert Herndon asked if there would be any other users on this tower, Mr. Huff said there are none at this time; but the tower will be designed to carry more users. Mr. Bryan said the County Ordinance requires that.

Based on the advice of Sandy Minkoff, County Attorney, Mr. Metz said he would be declaring a conflict of interest and not voting for the sake of avoiding the appearance of impropriety. However, he has been informed that he may still ask questions.

Mr. Metz asked what type of advertising was done for this application. He was not aware of this request until he read it in the packet. He received no notice in the mail. Ms. Allen replied that notices were sent to abutting property owners only.

MOTION by James Gardner, SECONDED by Donald Miller to recommend approval of CUP#05/10/3-3 with the amendment that the tower utilize a dual lighting system at the top of the tower with a red steady light at night rather than a flashing strobe light.

FOR: Gardner, Herndon, Bryan, Miller

AGAINST: Morris

CASE NO.: CUP#05/10/3-3

AGENDA NO.: 4

OWNER: Rhonda V. Vega
APPLICANT: Jim Huff of Craig & Associates for Nextel Communications

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CONFLICT OF INTEREST: Metz

NOT PRESENT: Blankenship

MOTION CARRIED: 4-1

CASE NO.: PH#73-05-2

AGENDA NO.: 5

OWNER: Lake Grove Utilities, Incorporated
APPLICANT: Karl Sanders, Esquire, for Cingular Wireless

Stacy Allen, Senior Planner, presented the case and staff recommendation of approval. She showed the aerial from the staff report on the monitor. She noted that one letter of opposition had been received.

There was no opposition in the audience to this request.

Rosel Pine was present to represent the case.

Robert Gardiner, a resident of Weston Hills, said this property is in close proximity to Weston Hills. He spoke of the radiation from cell towers. He added that one mile away on CR 474, there is a huge open area with no development. This would be a more appropriate location for the tower as the radiation would not create a problem. In addition to his radiation concerns, he was also concerned about the tower's effect on property values.

Sandy Minkoff, County Attorney, stated that federal law prohibits the County from using radiation issues to deny rezonings for cellular towers.

Ms. Pine pointed out that this property is already zoned CFD for a sewer plant. They just want to add a tower at a location that she felt is very compatible with this kind of use. It is a very large parcel that already contains a utility site. Staff has indicated that this is the type of site where they would like to see communication towers placed. Cingular Wireless is making the request in this location to fill a gap in their coverage along US 27. Earlier the Board had been given a letter from their RFD technician indicating the locations of the nearby towers and the gap. In addition to better coverage, this request will also allow them to provide the required 9-1-1 service.

MOTION by Robert Herndon, SECONDED by Donald Miller to recommend approval of PH#73-05-2 to amend Ordinance #38-90 to allow one 200-foot monopole communication tower.

FOR: Morris, Gardner, Herndon, Bryan, Miller

AGAINST: Metz

NOT PRESENT: Blankenship

MOTION CARRIED: 5-1

CASE NO.: PH#101-05-3

AGENDA NO.: 6

OWNER: Pete Benevides
APPLICANT: Steven J. Richey, P.A.

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of approval. He showed the aerial from the staff report on the monitor.

Paul Bryan confirmed with Mr. Hartenstein that the recommendation of approval includes the wetlands buffer waiver. Mr. Hartenstein said he felt the applicant has tried every possible avenue to meet those requirements. He did not feel there would be any significant adverse impacts once the review of the mitigation plan is completed.

In response to Timothy Morris, Mr. Hartenstein said the site plan will reflect how the average setback was established.

James Gardner was informed by Mr. Hartenstein that no feedback has been received yet from the St. Johns River Water Management District or the Army Corps of Engineers.

Mr. Morris asked if this rezoning would reflect if St. Johns and/or Army Corps deny the mitigation plan. In the proposed Ordinance, Mr. Hartenstein said he addressed that.

There was no opposition in the audience.

The applicant was present to represent the case.

MOTION by Timothy Morris, SECONDED by Donald Miller to recommend approval of PH#101-05-3 for an amendment to the existing CP Ordinance #2003-62.

FOR: Morris, Gardner, Herndon, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Blankenship

MOTION CARRIED: 6-0

CASE NO.:

CUP#05/12/1-3

AGENDA NO.:

7

OWNERS/APPLICANTS:

Andrew J. and Joni Hansen

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of approval with conditions. He showed the aerial and pictures from the staff report on the monitor. He had asked the Code Enforcement Division to perform an inspection of the property to ensure compliance with all the conditions. He had a report from Wendy Linzey, Code Enforcement Officer, stating that she and Tommy Leathers, Code Enforcement Division Director, performed the inspection. They inspected the director's home and the student facilities, and they met all the conditions of the Conditional Use Permit (CUP) as it stands right now. The dock meets all the requirements. Parking is sufficient. The gas tank meets all the requirements. There are no other non-commercial accessories on the property, as required. The equipment on the lake has solar lighting for night visibility. One boat is moored at the docks. In an e-mail to Rick Hartenstein, Ms. Linzey stated that she did not view any violations at the time of the annual inspection, and she has received no alleged violations for the wakeboard center on Lake Morgan in the last three years.

Because there were no violations or complaints over the last three years, Paul Bryan questioned the 16 letters of opposition that were received. Mr. Hartenstein said he could not say, but this also happened at the public hearing three years ago. He added that in addition to the 16 letters of opposition in the packets, eleven more have been received. In response to Mr. Bryan, Mr. Hartenstein said the new letters of opposition have basically the same concerns.

Andy Hansen said he has been water skiing as an amateur/professional for 42 years. His entire family is wakeboarders. They use Lake Morgan for both personal and business use. They purchased this business as the Benzel Skiing Center under a CUP with Lake County 12 years ago. The landowner at that time was the ABC Fruit Company. The president of that company told them that he would sell them the six acres; however, he died in an unfortunate accident. ABC Fruit Company then sold the company to Terri McEwen, who terminated their lease. They purchased a piece of property directly across the street and use the same lake the school has been operating on for 32 years. Because the CUP does not go with the business, but with the property, they had to reapply for a new CUP for the new property. Mr. McEwen was upset as he did not want them in the area. At that time the opposition, the developer, spoke of four problem areas: road access off Orange Avenue, too much traffic in the area, lake pollution from the boat being on the lake, and bunk units for the students being inappropriate for the new area across the street. The Board of County Commissioners (BCC) was not convinced by the staff's recommendation and established a term expiration for the CUP to give the applicant an opportunity to overcome these items, which he has. The road access is now paved and a County-maintained road. Regarding the amount of traffic, his school operates with vans. They pick up the students at the airport and bring them to the school so there is not excessive traffic on the road. He added that they have been utilizing this same lake for 32 years, and it is just as pristine now as it was when they first began using it. The concern now is that there are 116 lots that have a public ramp into that lake. He said they were commissioned by this Board and the BCC to upscale when they built the new student facility to separate the boys and the girls. They have a good reputation with the parents and the industry and in the world for taking good care of the students. The BCC voted in 1998 and unanimously in 2003 to continue their CUP. The term limitation was again put on the CUP because the Ranch Club wanted to develop and sell their lots. It is his understanding that the Ranch Club has sold out their 116-lot development. It is also his understanding that the purchasers of the Ranch Club lots were told by the developers of Ranch Club that this business would no longer exist. He said they own 40 acres of the 67-acre lake. They are negotiating for an additional 30 acres, which would total 77 acres on this lake. If they are not able to renew the CUP and continue the operation where they are, they will be forced to conduct all their operations on the abutting lakes, Lake Emma and Lake Lucy, which are accessible as two public bodies of water. The homeowners on those lakes would be unhappy with that. He felt they have brought a great ski and wakeboard camp to the area. The developers and land purchasers made their decision knowing that the business was on the lake. Their intent is not to keep anyone from using this lake. He felt they should be able to come up with an arrangement, and the staff has a good recommendation to do so.

Paul Bryan confirmed with Mr. Hansen that the existing CUP says that if there are any other property

CASE NO.: CUP#05/12/1-3 **AGENDA NO.:** 7
OWNERS/APPLICANTS: Andrew J. and Joni Hansen **PAGE NO.:** 2

owners or guests utilizing the lake, the business cannot operate. Mr. Bryan asked if Mr. Hansen adheres to that at all times. Mr. Hansen said the opposition will suggest that they don't, but they do and there has never been an incident where they haven't. However, there is a perception that they don't because their family uses the lake personally as well as for the business. They also use Lake David in the same manner. There are instances when they must share the lake or leave the lake, and they do that. Most of the time when they use the lake for business, it is 8 a.m. to 5 p.m. when people are at work. He did not anticipate frequent use of the lake by the homeowners during his normal business hours. Regarding the large number of letters of opposition, he said that if one individual gets upset over something and is adamant about doing something about it, he or she could easily stir up concern. He felt that is what has happened in this case.

Timothy Morris pointed out that a request has been made to remove the restriction on the school regarding the use of the lake. Mr. Hansen said that restriction creates an adversarial relationship.

In response to James Gardner, Mr. Hartenstein said the staff report explains that the applicant is requesting to be allowed to operate two powerboats on the lake at the same time and to remove the restriction, "When abutting property owners and/or their guests are using Lake Morgan, the ski school cannot operate on the lake." In the Ordinance, he has left some clause of stability, but he has added language so that Mr. Hansen could not be held "hostage" by a group of people trying to keep him off the lake. Staff has recommended that there be no more than two boats associated with the ski school operating at one time on Lake Morgan. When Lake Morgan is being used by abutting property owners and/or their guests, this ski school may continue to operate one boat on the lake. He felt the property owners and the ski school should be able to work together on that.

Larry Metz noted that in the existing CUP, there was to be a single building sufficient in size to house ten students and six instructors. In the proposed Ordinance, there is no limitation to the number of students and instructors in the two housing facilities. Mr. Hansen replied that their operation is very specific in the number of students they have; and once they reach that limit, they turn down students. Mr. Metz confirmed that there would be 16 students and six instructors total.

Mr. Metz asked the reason for dropping the numerical student limitation in the previous ordinance. Mr. Hartenstein said the limitation was placed more on the capacity of the structure than on the number of students. Staff did not feel it was necessary to indicate a specific number of students, but he could add that.

In response to Mr. Morris, Mr. Hartenstein said Mr. Hansen owns part of the lake bottom. The State owns the water.

Bill Higgins, president of the Ranch Club Homeowners' Association, submitted over 50 additional petitions of opposition as Opposition Exhibit A. He said the CUP states that the Ranch Club is a business; it is a community of homeowners. Mr. Hansen wants to be able to use the lake from 8 a.m. to 5:30 p.m. He is assuming no one wants to use the lake during those hours on Monday through Friday, and that is not the case. Mr. Higgins said he owns his own business and will want to use the lake during the week. Mr. Hansen said some sort of school has operated on Lake Morgan and the adjoining lakes for over 30 years. He does not want to have to renew his CUP on a continual basis. However, things have changed over the years. There are more people that want to utilize the lake. In response to Mr. Bryan, Mr. Higgins said he does not live on the lake; but he has access to the lake. He is building a house. Mr. Bryan asked if it would be a problem for Mr. Hansen to operate one boat on the lake. Mr. Higgins said it would be. Coming to an agreement would be the best solution, but Mr. Hansen wants sole access. That is unacceptable. Mr. Bryan was informed by Mr. Higgins that he is opposed to the existing CUP as well as the proposed amendments. As this area gets more people and more boats, Mr. Higgins questioned how it would be possible to cohabitate. He was aware of this operation before he bought his property, but he was also told that they were able to use the lake when the school was operating.

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Kevin Zibolski said this commercial business was a concern when he and his wife were considering purchasing property in Ranch Club on Lake Morgan. Before buying the property, they researched the existing CUP and the history. That CUP clearly states that when abutting property owners and/or their guests are using the lake, the ski school cannot operate a boat on the lake. They relied on that statement when they purchased their property. They also were aware that the CUP would be expiring, and things were changing. This same discussion came up three years ago when this CUP was renewed. When their house is built, they plan on using the lake on a regular basis during daytime hours. Although Mr. Hansen owns 40 acres of the lake bottom, there are 18 property owners on Lake Morgan. He submitted 17 petitions of opposition (Opposition Exhibit B) from all 17 other lakefront property owners. He asked that this Board deny this application. There are other property owners in Ranch Club who will also be using the lake during the day. In response to Robert Herndon, Mr. Zibolski said that since this community was just developed, none of the lots were in place prior to the school. However, each of the lakefront lots own a part of the lake bottom. Although the school may have been appropriate when there were no homes along the lake, but he felt there was a term put on the initial CUP because growth was coming to the area.

Mr. Morris thought that the reason this CUP was to come back in three years was to determine if there had been any Code violations and if the school and residents had worked together. The staff report states that there have not been any complaints.

Chris Forbes, current resident of Ranch Club and the prior developer of Ranch Club, said Ranch Club was developed 3-1/2 years ago. This commercial property does not fit in with a residential area. Expensive homes are coming into this area. It appears that Mr. Hansen is trying to create a much larger commercial area than they currently have in an area that does not dictate commercial. In response to Mr. Herndon, Mr. Forbes said the lake is 62 acres. It is a relatively small lake to be running two boats. He fishes on this lake. He said Mr. Hansen has access to Lakes Emma and Lucy, which are larger, better suited, and more compatible for his operation. Mr. Morris was informed by Mr. Forbes that he personally has had no conflicts with Mr. Hansen. Most of the time he uses the lake on the weekends.

Tom Irman, Ranch Club resident and vice president of the Homeowners' Association, submitted pictures of Ranch Club as Opposition Exhibit C and showed them on the monitor. The lots in Ranch Club are five to eight acres. The homes will range in price from \$800,000 to \$1.5 million. Within the Ranch Club, there are five villages. He submitted a site plan as Opposition Exhibit D. They have no problem with sharing the lake with the Hansens, but the lake is not large enough to share with a ski and wakeboard school. He just learned today that they want to add 30 acres to their property and add more dormitories. One of the biggest problems the residents have is that Mr. Hansen wants to limit 116 homeowners on their own lake. These homeowners have deeded access to the lake. He said Mr. Hansen wants to change the CUP so he can have exclusive rights on the lake between 8 a.m. and 5 p.m.

In response to Mr. Bryan, Mr. Hartenstein said that is a misconception. The applicants are not asking for exclusive rights to the lake during certain hours. They are asking to be able to operate during the same time that others are using the lake.

Mr. Irman said the applicants also want to add another boat. The boats for this school are meant to create huge waves. The ecological, noise, and safety effects are immense. The residents would like this school to go to another lake. He asked this Board to deny the request. When Mr. Morris asked if Ranch Club residents have access to Moon Lake, Mr. Irman said Moon Lake is a very small and shallow lake. He has never seen a boat on Moon Lake. Ranch Club does not have access to Moon Lake; they have access to Lake Emma through the river.

Carol Bedward said she is a realtor and lives in West Palm Beach. In that area, commercial and residential are not found together. If Mr. Hansen is going to operate a business in a residential area, his CUP should be required to come up for renewal. Mr. Bryan pointed out that this school is not located in commercial

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zoning. It has a Conditional Use Permit specifically for the ski and wakeboarding school.

Chris Larsen said he is building a house in Ranch Club. He purchased his land about 2-1/2 years ago, knowing that the ski school was there and also knowing they had deeded access to the lake. He wanted to ensure that he and his family would continue to have access to the lake and continue to have the ability to use the lake in a peaceful setting rather than in an "extreme sport setting." This is a residential community. Granting a CUP rather than rezoning this property would indicate that it should not be a long-term permanent situation.

Mee Maddox said she and her husband just purchased a lot in The Lakes at Ranch Club. They did considerable research before purchasing this property. Records show that the ski school could not operate when residents were on the lake. In addition, they were under the impression that the school may be relocating or using a larger lake. They are planning to build a dock in the next 60 days. With this being such a small lake, she was concerned about the waves created by the ski boats. She asked this Board to reconsider renewing the CUP based on their request at this time.

Lana Wilkin, a resident of Ranch Club, said she does not own lakefront property; but she has access to Lake Morgan. Even the slightest conception of restricted use to the lake is extremely disconcerting. The trend of the speakers at this meeting is that they want to be able to use the lake during the day.

Don Sharp, who lives in Winter Garden, says he owns a lot in Ranch Club. He and his family bought the lot about 18 months ago. His children will be using the lake during the day when they are on school vacation. His family is a water skiing, canoeing, and boating family. They bought their property knowing all the conditions that the other residents know. He felt this school is a commercial enterprise. To be restricted on the lake from 8 a.m. to 5 p.m. is very detrimental to the homeowners and their families. They are considering selling their property and building elsewhere. When Mr. Bryan asked Mr. Sharp if he would object to the continuance of the existing CUP, Mr. Sharp said he objects to the fact that a commercial company is operating on agricultural land.

Mr. Morris said Mr. Hansen is the one who has the restrictions, not the residents.

Lisa Parker said she and her husband own a lot in The Groves in Ranch Club. They bought their property in 2003. She thought that the CUP was approved in 2003 with the understanding that the Hansens' business would eventually have to relocate. Although their property is not lakefront, they plan to use the lake. She was concerned about the wake from the boat as she felt it could endanger her children. That will restrict her use of the lake. She felt there is other land available that encompasses entire lakes, and they would not have these issues.

Stacey Ferrari said she recently purchased lakefront property that is on Lake Morgan in the Ranch Club. She was aware of the ski school and was willing to share the lake with it. When she introduced herself to the Hansens, Mr. Hansen was rude to her. She was opposed to commercial use of Lake "Hansen" especially from a business owner who is trying to tell her she cannot use the lake to ski.

Mr. Higgins referred to Point 3 of Mr. Hansen's objections of the permit he submitted that states, "To make an arrangement for the lake where the Hansens do not have to stop operating when Ranch Club members use the lake." Then at the bottom it says, "It's recommending that there should be a sign at the Ranch Club boat ramp into the lake that states 'No Powerboating Monday through Friday from 8 to 12 and 1:30 to 5:30.'" There appears to be conflicting information. Mr. Bryan said the Board will clarify that again.

Mr. Hartenstein explained that in the back up that Mr. Hansen submitted, it does include Point 3 that Mr. Higgins read into the record. It also states that "Lake residents should have equal access and be able to work together. No one is currently using the lake except the Hansens and a few fishermen on a few

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weekends when the camp is not operating.” He said these were the objectives. In his justification, Mr. Hansen suggested a sign. Mr. Hartenstein explained to him that that would not be approved. The County is not going to restrict lakefront property owners their access to the lake.

Mr. Hansen said the sign idea was brought up by the residents themselves. It is a small lake, and any boat is a potential danger. He said his school tries to handle the situation professionally. He reiterated that they are not expanding. They will be operating in the same way with the same number of people. They want to be able to provide a better quality service. They have reduced the operation from the Benzel Skiing Center that operated on four lakes with 20 students. They have been researching a possible relocation for some time. However, they have not been able to find anyplace else. He is not against others using the lake for skiing and is willing to cooperate with the Department of Environmental Protection (DEP).

When Robert Herndon asked about the need for a second powerboat, Mr. Hansen said that was a staff recommendation. Photography is a big part of this sport; and on occasion, they have videographers out on the lake. They do not use a second boat operationally.

In response to Mr. Bryan, Mr. Hartenstein said his original involvement with this school was when he inspected CUPs when he worked in Code Enforcement. He was involved in the last renewal process. Mr. Bryan asked if there was ever any indication that this CUP was temporary in nature and that as the area further developed, this CUP was to allow Mr. Hansen time to relocate. When he said he did not recall that, Mr. Hartenstein said he did not recall that either. He felt it was more of a matter of this CUP being monitored closely to determine if everyone could get along. Since there have been no complaints or violations, staff felt all the issues had been worked out.

Sandy Minkoff, County Attorney, said there was discussion at the last BCC meeting that this use may have to be relocated. It is unusual for a CUP to expire; but it requires the applicant to obtain a new CUP, which is what Mr. Hansen is doing. Most CUPs are reviewable, but the burden would be on the BCC to take it away. However, this CUP was written so that it would expire; and the burden is on the applicant to come back.

Larry Metz said he does not have a comfort level with this application for a number of reasons. It has been represented that the operation is not expanding yet a new building is being added for additional berthing space for students and two boats are being requested instead of one. He is not in support of an expansion of this facility. This is a small lake, and there are a number of people who have access to the lake. That will increase over time. He could foresee a potential safety concern with this type of incompatible usage of the lake. He felt the current application seeks to expand an already questionable use on the property so he cannot support the current application. He felt it would be up to the BCC to decide if they want to allow it to continue under the current configuration with no expansion.

Mr. Bryan said he is not supportive of an expansion, but he would support renewing the existing CUP as a recommendation and then letting BCC sort it out. Mr. Metz said he had no problem with that because the school was there before the homes. Mr. Bryan said he did not want to delete the past requirement about not operating the school when residents are using the lake. Mr. Metz did not feel the representations made at the podium by the applicant agree with what he has read. Mr. Morris and Mr. Bryan agreed. Mr. Morris said he would be comfortable with the current CUP, knowing that it is going to come back in three years. Mr. Metz felt that was a reasonable solution. Mr. Herndon said he could also support that.

MOTION by Timothy Morris, SECONDED by Robert Herndon to recommend approval of CUP#05/12/1-3 to continue the existing Conditional Use Permit (CUP) with none of the requests made by Mr. Hansen and to require that the CUP come back in three years.

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FOR: Morris, Gardner, Herndon, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Blankenship

MOTION CARRIED: 6-0

Donald Miller left the public hearing.

CASE NO.: PH#104-05-2

AGENDA NO.: 9

OWNER: Magnolia Property Associates, LLC
APPLICANT: Jimmy D. Crawford, Gray, Robinson, P. A.

John Kruse, Senior Planner, presented the case and staff recommendation of approval. He showed the aerial and site plan from the staff report on the monitor. He noted that in the application, Jimmy Crawford requested a motel/hotel on Lot H, but he received some changes as of yesterday afternoon that they are not pursuing that permitted use at this time. Mr. Crawford provided Mr. Kruse with an updated ordinance that he worked out with the Magnolia Pointe Homeowners' Association. This was submitted as County Exhibit A. Mr. Kruse has reviewed the ordinance.

Robert Herndon left the public hearing.

Mr. Kruse showed Page 2 of County Exhibit A regarding the excluded uses. He said staff would feel comfortable with C-1 and C-2 uses and excluding those uses listed on Page 2. He noted language added on Page 3 of the ordinance regarding a six-foot masonry or brick wall along the west boundary. When Timothy Morris asked if that is a benefit, Mr. Kruse said it is compared to what was originally proposed. He said a six-foot berm with landscaping along the south boundary has also been added to the updated ordinance for the residents of Magnolia Pointe. He noted that the wall or berm shall be constructed at the beginning of construction of Lot H, which is the back lot. He also noted in the update ordinance that the building on Lot E, which is next to the guard shack and entrance to Magnolia Pointe, shall face west toward Magnolia Pointe Boulevard and that the buildings on Lot H shall be themed in a Mediterranean manner. Even with the proposed changes, staff can still recommend approval.

Jimmy Crawford was present to represent the case. He submitted "sort of" an updated site plan along with an ordinance as Applicant Exhibit A. The engineer is working on the final site plan because changes are being made based on his meeting with the Magnolia Pointe Homeowners' Association. Lot G was to be for the motel/hotel, but that use has been removed. They were fine with the staff's recommendation, but they have heard that their neighbors had concerns. They have met with the neighbors twice. He was agreeable to C-1 and C-2 uses less the exceptions noted. Regarding the height variance, they are asking to be allowed a 45-foot height limitation on Lot E only to construct a three-story financial services building. The Homeowners' Association wants to see an elevation of that building before they agree to that. He does not have that yet. They have agreed to language in the ordinance that that building should face west toward Magnolia Pointe Boulevard so the residents are not looking at the back of a three-story building. The ordinance he provided to staff said they could construct either a wall or berm along the south line. The Magnolia Pointe Homeowners' Association does not like the berm idea so they are willing to construct a six-foot masonry wall south of the guard shack and along the south line. He said the ordinance needed to be changed because the overall transportation planning of this area has changed since the original ordinance.

Dolores Rivera, president of the Magnolia Pointe Homeowners' Association, was present to represent the 480 residents and property owners in that community. Basically they are speaking in support of the amendment, but they do have some reservations. She commended Magnolia Properties and Mr. Crawford for their efforts in speaking with them and resolving the issues. There have been at least four meetings. The two concerns they have are with the height variance and the access. They understand the height variance is restricted to Lot E. In general, the residents are supportive of that variance if the additional height is going to be used to conceal mechanical equipment on the roof as this building faces the main entrance to their community. They want to ensure that it will not affect their property values. Regarding the access, Magnolia Pointe Boulevard is the only entrance to their community. They already have an approved commercial development on the west. The Plaza Collina main entrance will be directly north of their community. They would like to work with the appropriate authorities to ensure that the control of the Magnolia Pointe Boulevard is installed sooner rather than later. They would also like to see that plan to ensure the safety of their residents.

Mr. Bryan confirmed that the purpose of the height variance on Lot E is to conceal mechanical equipment.

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AGENDA NO.: 9

OWNER: Magnolia Property Associates, LLC

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APPLICANT: Jimmy D. Crawford, Gray, Robinson, P. A.

MOTION by Timothy Morris, SECONDED by Larry Metz to recommend approval of an amendment to PUD Ordinance #2000-9 in PH#104-05-2 with C-1 and C-2 uses with exclusions.

FOR: Morris, Gardner, Bryan, Metz

AGAINST: None

NOT PRESENT: Blankenship, Herndon, Miller

MOTION CARRIED: 4-0

John Kruse confirmed that the motion included the height variance.

CASE NO.: PH#103-05-3

AGENDA NO.: 10

OWNER: Coopree, Inc.
APPLICANT: Richard Langley, P.A.

John Kruse, Senior Planner, presented the case and staff recommendation of denial of HM zoning but approval of LM zoning. He showed the aerial from the staff report on the monitor. The applicant originally asked for HM industrial uses. When Timothy Morris asked if the applicant is comfortable with LM zoning, Mr. Kruse said he is aware of staff 's recommendation.

Steve Richey was present to represent the applicant. He spoke with Richard Langley this morning, and Mr. Langley authorized Mr. Richey to amend the request to LM zoning. That would be consistent with what they are doing. They will work on resolving the inconsistency between the Comprehensive Plan and the Land Development Regulations (LDRs) at some future date.

There was no opposition in the audience to this amended request.

MOTION by James Gardner, SECONDED by Larry Metz to recommend approval of LM zoning in PH#103-05-3.

FOR: Morris, Gardner, Bryan, Metz

AGAINST: None

NOT PRESENT: Blankenship, Herndon, Miller

MOTION CARRIED: 4-0

There was a ten-minute break.

CASE NO.: PH#86-05-2

AGENDA NO.: 11

OWNER: Lake County Gateway, LLC
APPLICANT: Ronald P. Manley, Canin Associates

John Kruse, Senior Planner, noted that this case was before this Board last month. The 200 requested residential units will be part of Phase 2. Staff has met repeatedly and quite extensively with the applicant and his team as well as with the City of Clermont, the Town of Oakland, and some public interest groups. County staff has determined through these meetings that it can support the request if the conditions of the proposed ordinance are met. He showed Exhibit E from the staff book on the monitor. The applicant is requesting a waiver for an additional five feet on the top of the signs for architectural display and center identification. County staff has reviewed that request and agreed with the requested waiver based on the justification given. Regarding a waiver for the number of dumpsters per square feet, that is not specifically a County Code. It is in the Clermont Joint Planning Area (JPA) Agreement. The applicant has provided justification for that waiver. Mr. Kruse felt the County staff and the City of Clermont agreed with that at a previous meeting. To meet the grading standards in the City of Clermont JPA Agreement would be very difficult to do. The applicant came forward with justifications. County staff and he thought the City of Clermont were comfortable with that waiver. In order to develop this parcel, one parking space per 200 square feet of building area was agreed upon. Based on justifications that the applicant gave, County staff and he thought also that the City of Clermont were agreeable to that. Mr. Kruse spoke of the size requirement that is in the JPA Agreement with the City of Clermont. County staff did not have an issue with that. There is no size limitation in the County. This type of waiver has been approved by the City of Clermont for some of their larger stores so he felt the City of Clermont would agree to this waiver. At one of their meetings, the City of Clermont did indicate that. There are some other architectural issues that the City of Clermont does agree with and the requested waivers to those standards. From the County standpoint, these standards are not in the rules and regulations so staff cannot make a determination. County staff is looking to the City of Clermont staff to provide some direction on that.

Regarding the height waiver, Mr. Kruse said County staff did not feel there was enough information provided to make a determination on this waiver request. He showed Exhibit D from the book showing the landscaping. From the County prospective, the intent of the visual screening would be there so County staff agreed with that requested waiver. He stated that there are other conditions in the Development Order that would be done at a regional level.

Paul Bryan said he was very impressed with the thoroughness of the staff report and the thought process behind several of the waivers that staff supports.

Cecelia Bonifay with Akermann Senterfitt was present on behalf of the applicant and the Plaza Collina development. This project has been thoroughly reviewed by staff including a number of Development Review Staff (DRS) meetings. Therefore, they feel very comfortable with what staff is recommending. The Development Order is the East Central Florida Regional Planning Council's recommendations incorporated into what the Florida Statutes require for a development order. She added that she appreciated Sandy Minkoff, County Attorney, being involved in this so there was agreement as to the form that documents would take and how they would be presented. She reiterated that the 200 residential units are proposed for the second phase but will not be constructed if school capacity is not available. That language is included in the PUD Ordinance.

Ron Manley with Canin Associates, project planners and applicant, stated that the staff report and minutes from the November meeting of the Zoning Board public hearing were very succinct and to the point. He said this is a two-phase project that should be completed by 2008 or 2009. As a condition of the DRI Development Order, construction of the 200 residential units cannot go forward until school concurrency is in place. Mr. Manley stated that they have agreed to provide start-up money for bringing service from Lynx into Lake County and into the City of Clermont. They have also agreed to provide for "super stops" for transit on the site.

Donald Miller came back to the public hearing.

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Mr. Manley said they have also agreed to construct a frontage road across their property, with a connection to a frontage road that is being proposed to the west of this site. He stated that they would be creating a 50-foot buffer on the ten acres of wetlands. They have tried to create as much buffer as possible on the northern portion of the site. They have dedicated property for the expansion of the Trail System and have agreed to viewshed buffers from that Trail and from CR 50. Because of the nature of the commercial shopping center business and the mixed-use projects, they are still in the process of trying to match tenants with the types of uses that they want to see on this site. They need the flexibility to go higher. The current regulations are 35 feet for habitable and 45 feet for finished structure. They are asking for 40 feet habitable and 50 feet finished on all of the parcels except Parcels 1 and 2. Parcels 1 and 2 are the larger parcels in the rear of the site. They need more height in the back of the site for visibility purposes. In those parcels they have asked for 70 feet for the habitable portion of the structure and 100 feet for the finished structure.

With this project, Mr. Manley said they are trying to create a nice gateway into the City of Clermont. They would like to have the ability to have the palms count for the regular types of plantings as opposed to the way the current regulations read. They want to work within that 20 feet to have 100 percent landscaping. The current regulations allow 50 percent landscaping and 50 percent sod. They want trees and shrubbery only within the ten feet along the frontage. They also want to seek approval from the Florida Department of Transportation (FDOT) to use the other ten feet for landscaping. That is part of their landscaping variance. He said they are happy with the proposed PUD Ordinance and the DRI Development Order as presented by staff. This is a good project that will be beneficial to Lake County and eventually to the City of Clermont.

Maureen Rischitelli, Town Manager from the Town of Oakland, said that as expressed previously the Town is concerned that Plaza Collina's traffic analysis and proposals may not adequately address its impacts on the surrounding area. The Town is concerned that this project has brought to light serious shortcomings that the overall infrastructure needs of south Lake County will continue to escalate and have adverse traffic impacts in Oakland. Previous headway gained by the SR 50 Corridor Task Force has been consumed by this project alone. To ensure protection for the Town, the West Orange Trail, and The Scenic Byway, they have engaged counsel to ensure that recommendations adequately address these protections and that future mitigations can be funded and accomplished to preserve the Town's unique character in its contribution to the region. Their counsel proposes that they will take the findings and submit revisions to the developer and Lake County staff.

Wayne Saunders, Clermont City Manager, said Clermont is excited about the project but has some concerns. This project is within their JPA and utility area. They will be providing the utilities for this project. There is a concern that there is not a specific site plan with the number and location of buildings. They felt as much detail as possible is needed in a project this size. Regarding the height variance for two parcels, those two parcels comprise 90 percent of the property. It was his opinion that a PUD gives the opportunity to enhance or increase the requirements rather than give variances. Since this is such a large project and will have a large impact on the area, the minimum requirements are probably not enough to ensure that this project will not have adverse impacts on the surrounding area. The items that Mr. Manley had said they have agreed to do regarding set asides, setbacks, and setbacks from wetlands are all minimum requirements. The additional five feet height for signage is not the standard that has been set in the City of Clermont or the JPA so they are opposed to that variance. They do not have a problem with the dumpster situation since this is a multi-use project. They also did not have a problem with the grading as this is a disturbed area. They were agreeable to the parking ratio of one parking space per 200 square feet. However, the requested nine-foot by 18-foot parking space is substandard. The minimum parking space in the City's Land Development Regulations (LDRs) is ten feet by 20 feet. The reason why it is not in the JPA LDRs is because the County staff wanted to put that into a separate chapter, and that has not been

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adopted yet.

The original direction from the BCC was that until those things are adopted, it should be the most restrictive standard that is used. Therefore, he encouraged this Board to require the larger parking space.

Mr. Saunders stated that Clermont's LDRs allow no more than ten parking spaces in a row without a landscaped island with at least one tree. The proposed plan for this project shows 15 parking spaces in between islands. Clermont would like to keep the requirement of no more than ten parking spaces without a landscape island.

Although the City of Clermont has approved some buildings in excess of 100,000 square feet, Mr. Saunders said that without specific detail, the City would have a difficult time supporting this request. It would also be difficult to support the height variance without specific sizes and locations of buildings.

With a project this size, Mr. Saunders said Clermont felt there should be additional landscaping. The minimum requirement in the County and the City is a 20-foot wide buffer on the front of the piece of property. Clermont did not feel that a ten-foot buffer is a legitimate request. Even though they propose to place another ten feet of landscaping within the right-of-way, there is no guarantee that FDOT will approve it. Clermont would like the entire 20 feet to be required.

Regarding the architectural standards, Mr. Saunders said the City of Clermont requires that the front of buildings be broken up at least every 100 feet by a three-foot offset. The applicant is requesting a one-foot offset. The City of Clermont wants it to remain at three feet as a one-foot offset would be almost unnoticeable on a large building face.

Mr. Saunders said that in the Development Order, it shows CR 50 from CR 455 into Orange County would be a four-lane road in Phase 2. Phase 2 will not begin until after over 900,000 square feet of commercial area have been constructed on this site. Knowing the traffic patterns in and around south Lake County, Minneola, and north of Highway 50, people are going to use Old Highway 50 to get to this project. Clermont felt it was important that this improvement to CR 50 be done long before Phase 2, tying it into the construction of the 400,000 to 500,000 square feet of construction on the site.

Paul Bryan confirmed with Mr. Saunders that he has been active for quite some time in the process and meetings that have been held. Mr. Saunders said all of these issues have been brought up. Other issues have also been brought up and resolved. Regarding the lack of a site plan, Mr. Bryan suggested language be put in the Ordinance that would address those issues instead of a site plan. Mr. Saunders replied that there could be some language that would limit the size of the buildings. However, Clermont felt a site plan would be a better way since it is possible to find ways to get around language. When Mr. Bryan asked the objection to the height variance, Mr. Saunders it is more a lack of information rather than an objection.

Dolores Rivera, president of the Magnolia Pointe Master Homeowners' Association, was present to represent the 480 property owners and residents of Magnolia Pointe. If the planning discussions mentioned today were open public hearings, she was not aware of them. Immediately after this public hearing, she will be obtaining a copy of all of those documents, waivers, and conditions of the Development Order so she can review and better understand them. She was pleased to hear that the issue of the 200 residential units will be addressed specifically in language regarding school concurrency. The Association will have some issues on the signage. They would also like some additional information on the height variance. The landscape waiver as well as transportation are big issues to them. Their expectation was that the widening of Highway 50 and the resolution of the transportation issues would be addressed in the early stages of the project. As a group, their residents are very excited about this project, but they want it to be beneficial to everyone.

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Ms. Bonifay said this project and every building that is in it will have to come back through the Lake County DRS for a detailed site plan review. She added that it is written in the JPA Agreement that requests for changes to the standards would be addressed through amendment to the PUD. She asked this Board to review the architectural standards provisions in the PUD Ordinance. Regarding the height variance, this site does slope. The issue was for those structures on the back that may be 30 or 40 feet below level at the front. Rather than seeing a roof, the texture and framework of the building may be preferable. They want to have great height on lower levels and a height that would be compatible with the surrounding area.

Mr. Manley pointed out that according to Page 3 of the staff report, a project of this size would be allowed many more signs than they are requesting. They have asked for four identification signs; 16 would be allowed. They are asking for five additional feet for architectural treatment on the top of those four signs. Regarding the dumpsters, the Code requires a dumpster for every 7,500 square feet of commercial. That would result in 160 dumpsters on the site. They have asked to have one dumpster for every 20,000 square feet of commercial space. The request for a smaller parking space is very miniscule. They have requested to put ten feet of landscaping in the right-of-way. This is not an unusual request in many cities and counties. As far as the architectural standards, he would like the future tenants to have flexibility with their site plans. Any issues can be addressed at site plan review. Mr. Manley stated that the technical studies that they presented to the County staff, FDOT, and other agencies that review traffic did not indicate that CR 50 improvements, if any, were needed prior to Phase 2. The language in the Development Order states that they must have monitoring and modeling take place and mitigation in place before they can go into the second phase. He questioned how many trips Plaza Collina will be putting on CR 50. With respect to the comments from the Magnolia Pointe Homeowners' Association, Mr. Manley said they would be glad to talk to the residents. They want to be good neighbors.

In response to Mr. Bryan, Mr. Manley said he is a community planner. He has done 35 to 40 DRIs across the State of Florida over the past 20 years. When Mr. Bryan asked if it is unusual to request waivers on this type of project, Mr. Manley said the PUD zoning district is known for that. Mr. Bryan asked if a parking space size of nine feet by 18 feet is adequate for current vehicle sizes. Mr. Manley said there is not a big difference between a nine-foot by 18-foot parking space and a ten-foot by 20-foot parking space. In addition, there is not always a vehicle in every spot. Parking requirements for commercial uses have always been overstated. There is always more parking required than what is actually needed. James Gardner agreed that there are usually excess parking spaces and suggested the parking spaces be widened. Mr. Manley said the variance request was for one parking space for every 200 square feet. Mr. Bryan said ten feet by 20 feet is a Clermont standard.

Donald Miller was informed by Mr. Manley that they are meeting the County landscape buffer requirement on both SR 50 and Lake Boulevard. Ms. Bonifay stated that FDOT has the segment of road that fronts on this project in their three-year plan. It will be six lanes. All the right-of-way has been acquired. The designs are already done for that segment. They have been working with FDOT.

In response to Mr. Gardner regarding the second sentence of Page 27 of the Development Order, Sandy Minkoff, County Attorney, said that is standard wording. The PUD has more detail and more requirements than the Development Order, but he did not feel there is anything in the PUD that is inconsistent with the Development Order.

When Timothy Morris asked if Clermont would be involved in the site process from here forward, Mr. Kruse said they would. They now come to the site review meetings and provide comments. Mr. Morris asked how much weight Clermont carries in the meetings. He felt Clermont has some legitimate concerns. Mr. Kruse said County staff would work with the City of Clermont in regard to the site plan approval process.

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OWNER: Lake County Gateway, LLC
APPLICANT: Ronald P. Manley, Canin Associates

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Larry Metz questioned the need for landscaping in the right-of-way when the parcel is 142 acres. Mr. Kruse replied that the applicant asked for this variance because the site is long, but not as deep. Therefore, the applicant felt the extra ten feet would give them ten more feet to work with. Mr. Metz asked if this is a fairly common request. Mr. Kruse said that normally staff does not encounter this; but since it is such a large project and it has a long road frontage on SR 50, staff was open to the idea. County staff felt they would meet the intent of a visual screening. He explained that when a project comes in for site plan approval, landscaping will be required as part of the site development. When Mr. Metz asked about the distance between islands, ten spaces versus 15 spaces, Mr. Kruse said that goes back to the size of the parking spaces. That is in the Clermont Code, but not in the JPA Code. The County Code is 15 spaces.

Mr. Bryan said he has a comfort level with this project and can support the request and the waivers.

Mr. Morris said a great deal of time has been spent on this project. He wanted to ensure that everyone stays involved in the process. Both Mr. Morris and Mr. Miller said they felt comfortable with the project.

MOTION by Donald Miller, SECONDED by James Gardner to recommend approval of the Planned Unit Development and Development of Regional Impact in PH#86-05-2 with the waivers requested.

FOR: Morris, Gardner, Bryan, Metz, Miller

AGAINST: None

NOT PRESENT: Blankenship, Herndon

MOTION CARRIED: 5-0

Adjournment

There being no further business, the meeting was adjourned at 1:25 p.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Paul Bryan
Chairman